

Public-Private Partnerships RFQ

Questions & Answers

October 20, 2009

1. **Q: Is BATA anticipating receipt of qualifications statements from teams or from individual firms? If from individual firms, would BATA be pairing primes with subs?**

A: The RFQ allows either teams or individual firms to submit statements of qualifications. The formation of teams is the responsibility of the respondents; BATA will not pair primes with subs after consultant selection.

2. **Q: How many advisory firms will be selected to the consultant panel and to the legal panel?**

A: BATA does not have a pre-determined number of consulting firms/teams or law firms/teams to select for the panel.

3. **Q: Is the difference you expect between the field and home-office rates simply the estimated travel costs that are supposed to be built into the fully loaded hourly rates? (RFQ Page 4, Item 7)**

A: BATA is requesting both field and home-office rates in order to ensure BATA is fully aware of the rates that might be charged by the Consultant. Differences in the two rates could be due to a variety of issues, such as different overhead being applied for field and home-office rates. (See Addendum #2 for revisions to this provision.)

4. **Q: What conflict-of-interest rules will BATA apply to a firm interested in providing consulting services listed in the RFQ? (RFQ Page 12, Prohibited Interest and Standard Consultant Agreement, Section 20)**

A: In addition to the Prohibited Interest provision described in Appendix C, Addendum #1, Item 2 restricts consultants and law firms/teams placed under contract with BATA (or MTC: added by Addendum #2, Item 9) as a result of this RFQ from being considered as contractors or subcontractors for P3 transportation projects implemented by BATA (or MTC). We do not want firms advising BATA or MTC on the merits of a P3 project in which they have an interest. Also, we will expect selected firms to disclose any interest in P3 projects as they are developed, to avoid a conflict of interest. Avoidance of a conflict of interest, real or apparent, is one of the reasons we are selecting a panel of firms or teams for both consulting and legal services.

5. **Q: Are there any other legal or policy restrictions that would prevent a consultant firm or any of its affiliates from having a financial interest in a team that intends to respond to a P3 project developed by BATA? (RFQ Page 12, Prohibited Interest and Standard Consultant Agreement, Section 20)**

A: As per Addendum 1 to the RFQ, firms selected to perform work under the RFQ who have been placed under contract with BATA (or MTC) are not eligible for consideration as contractors or subcontractors for any P3 transportation projects implemented by BATA (or MTC). Firms who have been placed on a panel of pre-qualified firms, but who have not entered into a contract with BATA or MTC, may withdraw from the panel, and this restriction will not apply.

6. **Q: May such a financial adviser or any of its affiliates also provide audit services to another governmental entity that becomes involved in BATA's PPP program or a particular PPP project? (RFQ Page 12, Prohibited Interest and Standard Consultant Agreement, Section 20)**

A: The RFQ does not restrict (and BATA/MTC does not have a policy that restricts) a firm under contract or subcontract as a result of this RFQ from providing audit services to another governmental entity that becomes involved in a BATA/MTC P3 program or project.

7. **Q: Will requesting exceptions or modifications to the terms and conditions in the RFQ and corresponding Standard Consultant Agreement disqualify a firm's SOQ?**

A: Taking exception to a material provision of the RFQ, such as the minimum qualification for law firms or teams or the conflict of interest provision discussed above may result in disqualification. However, requesting exceptions or modifications to the insurance provisions or standard contract will not disqualify a firm's SOQ. However, if a firm did not request an exception or modification by the deadline or if BATA did not accept a timely request in Addendum #2, BATA is not required to consider the request at the time of contract award.

8. **Q: Would selection and consulting for this BATA contract be considered a conflict for similar types of P3 or Express/HOT Lane consulting contracts with other Bay Area agencies (such as SCVTA, STA etc.) that may have partnerships and/or funding relationships with BATA/MTC?**

A: No.

9. **Q: Are there any DBE goals for this RFQ?**

A: No DBE requirements apply to this RFQ.

10. **Can you add clarification regarding travel expense reimbursement --- specifically the type of expertise being requested may come from firm locations beyond Northern CA. Is all travel reimbursement precluded as per the clause addressing ordinary travel expenses? Is it case by case - or has to be pre-authorized?**

A: See Addendum 2, item 3.

11. **Q: Do firms need to include a signed "Insurance Requirement" form (Appendix B) as part of their submission to the RFQ?**

A: Yes, a signed Appendix B is due with your submission. Firms will need to provide the required certificate of insurance providing verification of the minimum insurance requirements listed in Appendix B, within five (5) days of BATA's notice to firm that it has been selected for a contract with BATA or MTC. Being included on the panel does not start the 5 day period.

12. **Q: With respect to possible conflicts of interest, the RFQ does not address situations (except in the case of BATA officers and employees) where Consultant could be precluded from selection due to past or current contractual relationships with MTC or BATA. Can you confirm that no such situations exist which could reasonably disqualify Consultant?**

A: Having a past or current contract with BATA or MTC does not preclude a firm from being considered under this RFQ.

13. **Q: Item 5 under the heading "Form of Statement of Qualifications" requires references for key staff. How many references per key staff is BATA requiring?**

A: BATA is not requiring a specific number of references for key staff. As a general guide, but not a requirement, three or more references would be sufficient.

14. **Q: Item 7 under the heading "Form of Statement of Qualifications" stipulates that ordinary travel expenses, meals, and lodging in addition to sub-consultant mark-up is not payable under this agreement. Can you expand on this to better define what constitutes "ordinary" expenses, or is the intent not to pay any travel-related expenses for Consultant's staff while under contract?**

A: See Addendum 2, item 3.

15. **Q: In reviewing BATA's statutory authority, it would appear that its principal, if not exclusive, authority involves the region's toll bridges (other than the Golden Gate Bridge). Is there any thought that this authority might be expanded to include other toll-related projects such as HOT lanes on area freeways? Might there be any transit projects involved?**

A: The exact natures of the projects that might be evaluated and pursued as part of this initiative have not yet been determined. There is the potential that work related to this RFQ would include tasks pertaining to projects within the Bay Area region that do not explicitly fall under BATA's current authority. There is legislation (AB 744) under consideration in the Legislature that would give BATA authority to develop a Regional Express Lane network.

16. Q. MTC qualifies as a "regional transportation agency" [under SB 4], but I don't see that BATA is similarly authorized. Is the thought that P3 projects would be jointly developed with MTC to make use of the SB 4 authority? Is there any chance the firm(s) selected in this process will be used to assist MTC with any other such projects?

A. While BATA is not a "regional transportation agency" under SB4, BATA and MTC can, through various contractual agreements, jointly develop projects under SB 4. Yes, it was our intention to permit firms selected through this process to assist BATA and/or MTC with projects pursued under SB 4, and Addendum #2 makes that specific.